

OCT 12 2006

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Attention:	MAIL STOP APPEAL BRIEF - PATENTS Group Art Unit: 2131 Examiner: SHERKAT, Arezo	Fax:	(571) 273-8300
UNITED STATES PATENT AND TRADEMARK OFFICE		Phone:	(571) 272-3796
Pages:	Cover + 1 + 4 = 6	Date:	October 12, 2006
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Attention: Commissioner for Patents**Attorney Docket No. PD-990304**

Please find attached Re:

Serial No.: 09/688,609

Filing Date: October 13, 2000

- TRANSMITTAL FORM PTO/SB/21 (1 page)
- REPLY BRIEF IN RESPONSE TO EXAMINER'S ANSWER DATED AUGUST 24, 2006 (4 pages)

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PTO/SB/21 (09-06)

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FORM**

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Total Number of Pages in This Submission

5

Application Number

09/666,609

Filing Date

10/13/2000

First Named Inventor

Armando Montalvo

Art Unit

2131

Examiner Name

SHERKAT, Arezoo

Attorney Docket Number

PD-890304

ENCLOSURES (Check all that apply)☐

Fee Transmittal Form

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Fee Attached

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Amendment/Reply

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Affidavits/declaration(s)

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Information Disclosure Statement

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Certified Copy of Priority Document(s)

☐Reply to Missing Parts/
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Drawing(s)

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Petition

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Status Letter

☐Other Enclosure(s) (please identify
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Firm Name

The DirecTV Group, Inc.

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Georgann S. Grunebach

Date

October 12, 2006

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OCT 12 2006

PATENT
Docket No. PD-990304IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:

Montalvo, Armando

Serial No.: 09/688,609

Group Art Unit: 2131

Filed: 10/13/2000

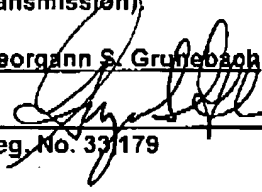
Examiner: Sherkat, Arezoo

For: SATELLITE SYSTEM FOR SECURE COMMUNICATION

Attorney Docket No.: PD-990304

Certification under 37 CFR 1.10

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Georgann S. Grunewald (Name of Applicant, Assignee or Registered Representative)
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October 12, 2006

(Date of Signature)

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REPLY BRIEF

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

The present Reply Brief is in response to the Examiner's Answer mailed August 24, 2006.

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Claims 1-10 Rejection under 35 U.S.C. § 112

In the Examiner's Answer beginning on page 7, paragraph (10), the Applicant would like to thank the Examiner for the withdrawal of the rejection of claims 1-10 under 35 U.S.C. § 112, first paragraph.

Claims 1-10 Rejection under 35 U.S.C. § 103(a)

The Examiner asserted that the claims fail to show the features upon which Appellant is relying, namely the security control plane is formed from information received from "each of the communication layers" and that "the security control plane does not pre-exist as a software module." It is respectfully asserted that these two features are clearly recited in the claims.

Independent Claims 1 and 10 require "a security control plane coupled to and formed using information from **each of said plurality of communication layers**," thereby clearly reciting the security control plane is formed from information from each of the communication layers. Furthermore, the requirements of Claims 1 and 10 that identify the **formation** of the security control plane clearly recites that the security control plane is formed from information in each communication layer and therefore, it is respectfully submitted that the security control plane cannot be interpreted as a pre-existing software module.

The Examiner also asserted that the **application layer** is not relied upon in the claims. However, it is respectfully asserted that the application layer is defined in the specification to be one of the plurality of communication layers recited in the claims. The claims require that the security control plane is coupled to and formed from each of the plurality of communication layers. Therefore, the claims require that the application

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layer, as part of the plurality of communication layers that contains or provides security information used in the formation of the security control plane, is relied upon in the claims.

The Examiner asserted that the Appellant's argument regarding Preston's teachings of key and encryption utilized in single layer fails to comply with 37 CFR 1.111(b) because the argument fails to specifically point out how the claim language patentably distinguishes from the Preston reference. To more clearly define the argument, it is respectfully asserted that the claims of the present invention form a security control plane using information from **each of the plurality of communication layers**. The present invention teaches utilization of each communication layer and not merely key and encryption utilized in a single layer as taught in the Preston reference.

The Appellant maintains the argument that the Preston reference fails to teach or suggest forming the security control plane from information received from each of the communication layers and that the security control plane does not pre-exist as a software model. Therefore, even in combination with other references that may indicate modularity (i.e., Willis and/or Greene), the references fail to teach or suggest the features of the present invention.

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Appellants believe that Claims 1-10 remaining in this case are allowable and requests the Board to reverse the Examiner's finding of unpatentability.

Respectfully submitted,



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Dated: October 12, 2006

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